

Notice of Allowability

Application No.

09/902,705

Examiner

Delia M. Ramirez

Applicant(s)

BEDNARIK ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/16/2004.
2. ☒ The allowed claim(s) is/are 27-29, 31,33-37,64-66,68,70-74,77-81,84-95,97,98-105,108-114.
3. ☒ The drawings filed on 22 March 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Status of the Application

Claims 27-31, 33-37, 64-68, 70-81, 84-114 are pending.

Amendment of claims 27-29, 64-66, 77-81, 91-95, 103-107, and cancellation of claims 82-83, 115-126 in a communication filed on 8/16/2004 is acknowledged.

In a telephone conversation with Melissa Pytel on 9/8/2004, an agreement was reached to amend claims 31, 68, 97, 103, and cancel claims 30, 67, 75-76, 96, 106-107 to place the application in condition for allowance.

Examiner's Amendment

1. An informal Examiner's amendment to the specification appears below. This amendment is to update the status of prior application(s) to which priority is claimed in the first sentence of the specification (37 CFR 1.78).

2. Please enter the following amendments to the specification as follows:

3. In page 1, please replace paragraph [001] with the following paragraph:

This application is a continuation of and claims priority under 35 U.S.C. § 120 to U.S. Application No. 08/461,031, filed June 5, 1995, now abandoned, which is a continuation-in-part of and claims priority under 35 U.S.C. § 120 to International Application No. PCT/US94/11914, filed on October 19, 1994, (which International Application was published by the International Bureau in the English language on May 2, 1996 as International Publication No. WO 96/12501), both of which are hereby incorporated by reference in their entirety.

4. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Art Unit: 1652

5. Authorization for this Examiner's amendment was given in a telephone interview with Melissa Pytel on 9/8/2004.

6. Please cancel claims 30, 67, 75-76, 96, 106-107.

7. Please replace claims 31, 68, 97, 103 as follows:

31. An isolated nucleic acid molecule consisting of at least 50 contiguous nucleotides of nucleotides 626 to 1260 of SEQ ID NO: 1, or the completely complementary strand thereto, wherein said isolated nucleic acid is linked to a heterologous polynucleotide encoding a heterologous polypeptide.

68. An isolated nucleic acid molecule consisting of at least 50 contiguous nucleotides of the coding sequence of the human cDNA contained in ATCC Deposit No. 75844, or the completely complementary strand thereto, wherein said isolated nucleic acid is linked to a heterologous polynucleotide encoding a heterologous polypeptide.

97. An isolated nucleic acid molecule consisting of a polynucleotide sequence encoding a polypeptide selected from the group consisting of:

(a) a polypeptide consisting of at least 30 contiguous amino acid residues of amino acids 1 to 212 of SEQ ID NO: 2;

(b) a polypeptide consisting of at least 50 contiguous amino acid residues of amino acids 1 to 212 of SEQ ID NO: 2;

(c) a polypeptide consisting of at least 30 contiguous amino acid residues of the polypeptide encoded by the cDNA contained in ATCC Deposit No. 75844; and

(d) a polypeptide consisting of at least 50 contiguous amino acid residues of the polypeptide encoded by the cDNA contained in ATCC Deposit No. 75844;

wherein said isolated nucleic acid is linked to a heterologous polynucleotide encoding a heterologous polypeptide.

103. An isolated nucleic acid molecule comprising a polynucleotide sequence encoding a polypeptide selected from the group consisting of:

(a) a polypeptide comprising an amino acid sequence which is at least 95% identical to amino acids 1 to 212 of SEQ ID NO: 2; and

(b) a polypeptide comprising an amino acid sequence which is at least 95% identical to the sequence of a polypeptide encoded by the cDNA contained in ATCC Deposit No. 75844.

Reasons for Allowance

8. The following is an Examiner's statement of reasons for allowance. Although the prior art discloses nucleic acids encoding hypoxanthine (guanine) phosphoribosyl transferases, the Examiner has found no teaching or suggestion in the prior art directed to the polynucleotide of SEQ ID NO:1 or a polynucleotide encoding the polypeptide of SEQ ID NO: 2. Therefore, claims 27-29, 31, 33-37, 64-66, 68, 70-74, 77-81, 84-95, 97-105, 108-114 directed to the polynucleotide of SEQ ID NO: 1, a polynucleotide encoding the polypeptide of SEQ ID NO: 2, fragments of said polynucleotides, structural homologs of said polynucleotides encoding a hypoxanthine (guanine) phosphoribosyl transferase 2, vectors, host cells, and a method to recombinantly produce the polypeptide of SEQ ID NO: 2, fragments thereof, and structural homologs of the polypeptide of SEQ ID NO: 2 having hypoxanthine (guanine) phosphoribosyl transferase 2 activity, are allowable over the prior art of record.

9. Claims 27-29, 31, 33-37, 64-66, 68, 70-74, 77-81, 84-95, 97-105, 108-114 are allowed.

10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (571) 272-0938. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

Application/Control Number: 09/902,705

Page 5

Art Unit: 1652

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

Delia M. Ramirez, Ph.D.
Patent Examiner
Art Unit 1652

DR
September 9, 2004

Delia M. Ramirez
1652